United Nations A/HRC/31/NGO/34

General Assembly

Distr.: General
17 February 2016

English only

Human Rights Council
Thirty-first session
Agenda item 8
Follow-up and implementation of the Vienna Declaration and Programme of Action

Written statement* submitted by the Modern Advocacy, Humanitarian, Social and Rehabilitation Association, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[08 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02280(E)

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Facing the Anthropological Obstacles that deter the Universality, Indivisibility, Interdependence and Interrelatedness of all Human Rights

Introduction

Amidst countless critical postulates, cultural relativism seems to inflict the most dissuasive smear on the UN Charter's adjudication over the universality of human rights. The cultural relativist debate has severely undermined the affirmation of the Vienna Declaration and Programme Action of the World Conference on Human Rights with regards to the universalism, indivisibility, interdependent and interrelatedness of all human rights. There is thus need to address the pending hurdles within the cultural relativist context, acknowledge some already instituted processes that have dealt with the problems and propose a demographic merger dynamics on the human rights particularities within different zonal ethics across the globe.

In the limelight, the grasp on human rights universality is mostly centralized on the varying interests of concerned stakeholder parties. These include the International community, the Sovereign Nation-State as a compliant subject of the former and having its diverse cultural groups under its protection; individual cultural entities as subjects to the international and State level norms; as well as human persons acting as the final subjects to all mentioned but most especially to the local communities' and/or cultural groups' traditions. In such a complex merger framework, there is therefore need for a demographic restructuration on the implicit meaning of 'human rights universalism' in order to fully address 'fairness and equality' with regards to the needs, values and desires of the human person seeking happiness within his/her entourage and beyond.

The Scope of Human Rights Universalism

At the International Community Level. Article 1(3) of the United Nations Charter indicates one central purpose of the UN as that of 'promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.' Though an obvious weakness is noticed in the fact that the Universal Declaration of Human Rights is much more of a declaration than an internationally binding agreement, dominant opinions in public international law from a socio-political point of view have expressed a visionary multicultural or pluralistic inclusiveness, interrelatedness and interdependent contexture within the UDHR with a plea for a world with more dignity and respect for human beings. This is affirmed by the World Conference on Human Rights, through the Vienna Declaration and Programme of Action. In fact, the 1948 take-off cosmopolitan visionary scope of the UDHR was actually concretized via numerous regional instruments such as the Covenant on Economic and Cultural Rights; the Covenant on Civil and Political Rights; the Convention on the Prevention and Punishment of the Crime of Genocide; the Convention on the Elimination of all Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment; and the Convention on the Right of the Child.

Within Nation-States. The universality scope of human rights suffers countless derogative interpretations within State constitutionalism. Though States duly inscribe human rights universalism as a supreme norm within their constitutional dispositions, the worry remains at the level of the enforceable mechanisms instituted to ascertain such a universalistic scope over their national territorial limits. This is assessed at the level of ineffective executive follow-up and adjudication procedures put in place. For example, within Africa, Asia, Middle East and Latin American countries, it is noticed that a majority of them have duly inscribed the universalism contexture of human rights within their sovereign governance norms but it is rather very pitiful and a common knowledge to still notice that these very Nation-States have not enacted any strict accompanying penal legislations within their repressive systems. Most often, the burden to address human rights issues is left within the limited competences, resources and reach of local NGOs.

Human Rights Universalism and State Level Elitism

Elitism at a State level is considered as the belief that government or control should be in the hands of a small group of specially qualified, privileged, wealthy, or intelligent people, or the active promotion of such a system. Since this term is nurtured within the premise of another connotation such as dignity and driven in the direction of pride, honor, and high rank or distinguished human positioning, the equality factor worth within the value of human rights universalism is streamed-off and the superiority of some groups of people over others considered. In our world today, traces of the historical phenomenon of dignifying elitism are experienced within almost every system. For example,

when processing the development and implementation of human rights instruments, the procurement of only more enlightened and qualified personnel brings in an obvious inequality. Assuming that other human beings are inapt or not academically sound to actively participate during such proceedings, to a large extend, voids the universalistic scope and reach of the human rights. At the State level today, elitism and ethnicity have developed into a parallelism framework with very severe adverse consequences on human rights universalism. In most Middle Eastern countries, religion has become the disguised pejorative monster behind an ethno-elitism incursion on the human rights universality within the zone. Specifically misguided by the Islamist or other denominational religious extremist elites within the republics, ethno-elitism based on the support and qualification of one religious system over the other, subterfuges an incorporated problematic and stereotyped version of multicultural politics that affirms the difference of cultures rather than emphasizing on commonalities and cooperation. This seriously builds in an ultimately paternalistic racist politics over non-elite religious groups and so requires a serious redress.

The Cultural Relativist Hurdle within Human Rights Universalism

The emergence of contemporary human rights regimes over the last fifteen years quickly strained the capacity of existing socio-cultural theory orientations to explain a number of variant issues: how human rights relate to other transnational normative framesets; the disjuncture between the universalism which anchors the idea of human rights concepts within modest scales in which ancestral cultural systems and modern socio-cultural actors coexist as part of preexisting legal and modern ethical configurations; the relationship between the epistemology of human rights practices and the social ontology in which they are necessarily embedded; the impact of human rights discourse on alignments of political, economic, and other forms of power, alignments which predated the rise of the international human rights system in 1948 and which are motivated by an entirely different set of ideological and practical imperatives. In certain cultural perspectives, individual rights systems vary so much. For example, there are cases wherein living in social relationships does not only mean having rights, on the contrary, a greater portion of responsibility and duties towards each other and the community is understood to be constituent components of the essence of being human.

Conclusion

In reflection, though the World Conference on Human Rights, through the Vienna Declaration and Programme of Action,[1] makes it clear that the international community must treat human rights globally in a fair and equal manner, while, the significance of national and regional particularities and various historical, cultural and religious considerations must be borne in mind, and so, granting individual States the duty to promote and protect all human rights and fundamental freedoms, we can still perceive a shortcoming at the level and scope of the 'fundamentality' to be addressed by States. In a pragmatic address to follow-up the deterrent obstacles in the subject matter, major notes can be upheld within the following points:

1) Understood that pejorative ethno-nationalist and egoistic protective cronyism of the ruling class and ethnic groups, make nationalist agendas systematically and tacitly construed to deny or neglect all stances for punitive legislations within the universal scope of the human rights, there is further need to produce and promote conventional obligations which truly empower local citizenry access to both speedy national and international justice mechanisms against the country power detainers. In fact, Nation-States need to inscribe firm legal standing recourse procedures and repressive legislations for the UDHR that are fully enforceable within the politico-legal armpits of their Sovereign territories.

2) The knowledge of universality, indivisibility, interdependence and interrelatedness of the human rights seems to be very unpopular within national and local milieus. In fact, if national laws fail to uphold strict and repressive applicability of human rights because their authors lacked the will or expertise to interpret the human rights universalism paradigm, therefore, cultural interpretations of same will heavily mislead and soil the contextual origins. In addressing this, both national and local justice systems need to obtain profound knowledge on the universality, indivisibility, interdependence and interrelatedness of all human rights.

The dispositions of the universal declaration of human rights are dictated as inclusively interwoven and inseparable in a world of limitless cultural variations and human wellbeing understandings, however, a better

[1] Vienna Declaration and Programme of Action, as adopted by the World Conference on Human Rights on June 25, 1993. UN Doc. A/CONF.157/23, Part I, para. 5.

achievement of such a utopic dictum will entail an assessment of the various cultural understandings on how different people or target human rights subjects perceive and will understand and implement the phenomenon as it be.